

ESTTA Tracking number: **ESTTA197449**

Filing date: **03/11/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	The Cradle Society		
Entity	Corporation	Citizenship	Illinois
Address	2049 Ridge Avenue Evanston, IL 60201 UNITED STATES		

Attorney information	Mark V. B. Partridge Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP 311 South Wacker Drive Suite 5000 Chicago, IL 60606 UNITED STATES mvbp@pattishall.com, rburch@pattishall.com, jnovotny@pattishall.com Phone:312-554-8000
----------------------	--

Applicant Information

Application No	78884890	Publication date	03/04/2008
Opposition Filing Date	03/11/2008	Opposition Period Ends	04/03/2008
Applicant	Zalon, Hilary J. 1226 23rd Street Santa Monica, CA 90404 UNITED STATES		

Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Providing links to the websites of others featuring retail store services in the field of baby related products, namely, clothing, nursery items, toys, and other baby gear
Class 038. All goods and services in the class are opposed, namely: Providing an interactive on-line forum for transmission of messages among computer users concerning information of interest to expectant parents relating to experiences with and information about babies; providing tools for expectant and new parents, namely, providing on-line electronic bulletin boards for transmission of messages among computer users concerning baby names, infant photo galleries, online birth announcements, and gift registry information
Class 044. All goods and services in the class are opposed, namely: Providing pregnancy and baby related information to expectant parents in the field of healthcare

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
--------------------------------------	----------------------------

Mark Cited by Opposer as Basis for Opposition

U.S. Application/ Registration No.	NONE	Application Date	NONE
Registration Date	NONE		
Word Mark	THE CRADLE		
Goods/Services	A wide variety of adoption-related services, including, inter alia, counseling and educational services for pregnant women and adoptive families; medical and caretaking services for babies; on-line services, including an interactive community discussion forum for website users including birthparents and adoptive parents.		

Attachments	Notice of Opposition.THE CRADLE.Serial No. 78884890.pdf (6 pages)(95688 bytes)
-------------	---

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Rebecca R. H. Burch/
Name	Rebecca R. H. Burch
Date	03/11/2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In The Matter of Application Serial No. 78/884890: THE CRADLE

Published in the *Official Gazette* on March 4, 2008, Page TM 364 in Classes 35, 38 and 44

THE CRADLE SOCIETY,)	
)	
Opposer,)	
v.)	Opposition No.
)	
HILARY J. ZALON,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

The Cradle Society ("Opposer"), an Illinois not-for-profit corporation having its principal place of business at 2049 Ridge Avenue, Evanston, Illinois 60201, believes it will be damaged by registration of the mark shown in App. Ser. No. 78/884,890 and opposes the same.

The grounds for opposition are as follows:

1. Opposer was founded under the name THE CRADLE SOCIETY in 1923, and for many decades has made continuous use of the trade name and trademark THE CRADLE in connection with a wide variety of adoption-related services.

2. Since long prior to May 16, 2006, the date on which Hilary J. Zalon ("Applicant") filed the application opposed herein, Opposer has used the THE CRADLE name and mark in connection with, *inter alia*, counseling and educational services for pregnant women and adoptive families, and medical and caretaking services for babies.

3. Opposer registered the domain name <cradle.org> on or around March 6, 1996, and has developed an extensive website in association with the <cradle.org>

domain. This website includes a header on each page with THE CRADLE mark, and is an important source of information for pregnant women, adoptive families, and others. As part of its role as a community center for clients and potential clients of Opposer, the website provides an on-line interactive community discussion forum for website users including birthparents and adoptive parents.

4. Opposer has established itself as a prominent figure in the world of adoption and related family-support services, and has spent significant amounts of time and money promoting and advertising THE CRADLE name and mark throughout the United States, and on an international basis.

5. By virtue of its long-standing involvement and prominence in the adoption community and extensive promotion and advertising to expecting parents, prospective adoptive parents and new families, Opposer's THE CRADLE name and mark has become well-known throughout the United States, and Opposer now owns an immensely valuable goodwill symbolized by THE CRADLE.

6. On May 16, 2006, Applicant filed an intent-to-use application, Serial No. 78/884,890, to register the mark THE CRADLE for the following goods: "Providing links to the websites of others featuring retail store services in the field of baby related products, namely, clothing, nursery items, toys, and other baby gear" in International Class 35; "Providing an interactive on-line forum for transmission of messages among computer users concerning information of interest to expectant parents relating to experiences with and information about babies; providing tools for expectant and new parents, namely, providing on-line electronic bulletin boards for transmission of messages among computer users concerning baby names, infant photo galleries, online

birth announcements, and gift registry information" in International Class 38; and "Providing pregnancy and baby related information to expectant mothers in the field of healthcare" in International Class 44.

7. On information and belief, Applicant first registered the domain name <thecradle.com> on or around May 23, 2006.

8. On information and belief, neither Applicant nor any predecessor or related company of Applicant has any basis for claiming rights in THE CRADLE prior to May 2006 at the earliest.

9. Applicant's use of and application to register THE CRADLE is without Opposer's consent.

10. Applicant's proposed use of THE CRADLE for the applied for goods is likely to cause confusion, mistake or deception with Opposer and Opposer's THE CRADLE name and mark, and is likely to cause users of the website associated with <thecradle.com> and others to erroneously believe that Applicant's services are Opposer's services or that Applicant or its services are in some way legitimately connected with, sponsored or approved by Opposer.

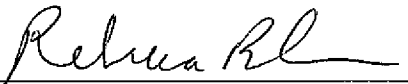
11. Accordingly, Applicant's registration of THE CRADLE would be damaging to Opposer.

WHEREFORE, Opposer prays that its opposition be sustained and registration of Application Serial No. 78/884,890 be refused.

Opposer submits the requisite filing fee of \$900. Please debit any deficiency or credit any overpayment to Account No. 16-0650. Please address all correspondence to Mark V. B. Partridge, Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP, 311 South Wacker Drive, Suite 5000, Chicago, Illinois 60606.

PATTISHALL, McAULIFFE, NEWBURY,
HILLIARD & GERALDSON LLP

Dated: March 11, 2008

By: 

Mark V. B. Partridge
Rebecca R. H. Burch
311 South Wacker Drive
Suite 5000
Chicago, Illinois 60606
(312) 554-8000

Attorneys for Opposer

CERTIFICATE OF SERVICE

I, Rebecca R. H. Burch, hereby certify that a copy of the foregoing **NOTICE OF OPPOSITION** was served upon Jules D. Zalon, Law Office of Jules D. Zalon, 20 Curtis Avenue, West Orange, NJ 07052, via first-class mail, on this 11th day of March, 2008.



CERTIFICATE OF ELECTRONIC TRANSMISSION

I, Rebecca R. H. Burch, hereby certify that this **Notice of Opposition** is being electronically transmitted to the Patent and Trademark Office on this 11th day of March, 2008.

